

CENTRAL INTELLIGENCE AGENCY  
WASHINGTON, D.C. 20505

24 SEP 1974

Honorable William S. Moorhead, Chairman  
Subcommittee on Foreign Operations  
and Government Information  
Committee on Government Operations  
House of Representatives  
Washington, D. C. 20515

Dear Mr. Chairman:

It is understood that the House Government Operations Committee is currently considering H.R. 16373, which grants individuals access to information on them held by Federal agencies. Although our comments on the bill have not been requested, we did submit our comments on H.R. 12206, the predecessor bill, and we would appreciate your consideration of our views on H.R. 16373, as reported out of Subcommittee.

The Central Intelligence Agency has been exempted in section 3 from most of the bill. We appreciate this recognition by the Subcommittee that compliance with most of the provisions of the bill would impair this Agency's ability to fulfill its statutory responsibilities. However, a few problems do remain which I would like to bring to your attention.

In order for this Agency to avail itself of the specific exemption provided in the bill [subsection (j)(1)], it must meet requirements for rule-making as currently set forth in section 553 of Title 5, United States Code, including a public hearing to justify the exemption. Such a requirement conflicts with the statutory responsibility imposed upon the Director of Central Intelligence for protecting Intelligence Sources and Methods from unauthorized disclosure, and with the exemptions extended in section 553 of Title 5, United States Code, to a "military or foreign affairs function of the United States." In addition, the preamble to the specific exemption for this Agency would permit any agency head to exempt CIA records. It is assumed that it is intended that only the head of this Agency possess the authority to exempt records maintained by this Agency. Finally, as phrased, it could be argued that CIA records disseminated to other agencies are not covered by the exemption.

In order to avoid the above ambiguities, it is requested that the CIA exemption be inserted as new subsection 552a. (1), as follows:

"Except for subsections (b) and (e)(2)(A) through (F) the system of records maintained or originated by the Central Intelligence Agency shall be exempt from the provisions of this section."

Section 5 of H. R. 16373 amends section 3506 of Title 44, United States Code, and bars Federal agencies from maintaining records on the political and religious beliefs of individuals "unless expressly authorized by statute." Unlike the definition in section 3, the term "individuals" in section 5 appears to encompass foreign nationals. I am sure that it is not the intent that section 5 bar this Agency from collecting such information on foreign personalities living abroad, and it is requested that this section be amended to exclude from its proscriptions foreign intelligence information compiled by this Agency pursuant to section 102 of the National Security Act of 1947.

There are certain reporting requirements in H. R. 16373 which can present problems. Section 3 amends section 552 of Title 5, United States Code. Subsection (e)(2)(A) requires Federal agencies to publish a notice in the Federal Register specifying the name and location of each system of records covered by the bill. Certain of these records are maintained at locations which we cannot disclose. Our statement of location will have to be a general description, such as "Headquarters" or "Abroad." I feel this broad statement would be consistent with the objectives of the bill, and I would hope that the Committee agrees with this general response. Subsection (m) requires the President to submit an annual report to Congress, separately listing for each Federal agency the number of records contained in any exempted system of records. We would interpret that this would not require a specific listing of the number of Agency employees, since disclosure of this figure would be in conflict with 50 U.S.C.A. 403g, which exempts the Agency from the provisions of any law requiring disclosure of the number of Agency employees.

Time did not permit the clearance of this report with the Office of Management and Budget.

Sincerely,

**SIGNED**

W. E. Colby  
Director

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